

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JASON LEOPOLD

[REDACTED]

)
)
) Judge _____
) Civil Action No. _____

PLAINTIFF

vs.

DEPARTMENT OF JUSTICE,
950 Pennsylvania Ave., NW
Washington, DC 20530

DEFENDANT

COMPLAINT

THE PARTIES

1. Plaintiff Jason Leopold is a citizen of California [REDACTED]
[REDACTED]

2. Mr. Leopold spent three and a half years as lead investigative reporter of Truthout.org, a nonprofit newsroom, and is now a regular contributor to Al Jazeera English, where he covers Guantanamo, national security, counterterrorism, civil liberties, human rights, and open government. Additionally, he is the editor-at-large for The Public Record. His reporting has appeared in *The Nation*, *The Wall Street Journal*, *The Financial Times*, *Salon*, *CBS Marketwatch*, *The Los Angeles Times*, and numerous other domestic and international publications.

3. Mr. Leopold seeks access to certain public records to write a news report for distribution to the general public. His connections and relationships with a wide range of

domestic and international media organizations will ensure that any story he drafts based on the information contained in these records will be published and reprinted

4. Defendant Department of Justice (DOJ) is an agency of the United States.
5. The DOJ has possession, custody and control of the records Plaintiff seeks.

JURISDICTION AND VENUE

6. This action arises under the Freedom of Information Act (“FOIA”), 5 USC § 552.
7. This Court has jurisdiction over the parties and subject matter pursuant to 5 USC § 552(a)(4)(B).
8. Venue is proper in this district pursuant to 5 USC § 552(a)(4)(B).

STATEMENT OF FACTS

BACKGROUND

9. The Senate Select Committee on Intelligence (SSCI) voted 9-6 to approve a report regarding the CIA's Detention and Interrogation Program on December 13, 2012. The Library of Congress describes the report as follows:

“On December 13, 2012, the Committee approved its report on the CIA's Detention and Interrogation Program, by a vote of 9 to 6. The Committee Study is a highly detailed report that exceeds 6,000 pages and includes approximately 35,000 footnotes. It is divided into three volumes:

I. *History and Operation of the CIA's Detention and Interrogation Program.* This volume is divided chronologically into sections addressing the establishment, development, and evolution of the CIA detention and interrogation program.

II. *Intelligence Acquired and CIA Representations on the Effectiveness of the CIA's Enhanced Interrogation Techniques.* This volume addresses the intelligence attributed to CIA detainees and the use of the CIA's enhanced interrogation techniques, specifically focusing on CIA representations on how the CIA detention and interrogation program

was operated and managed, as well as the effectiveness of the interrogation program. It includes sections on CIA representations to the Congress, the Department of Justice, and the media.

III. *Detention and Interrogation of Detainees.* This volume addresses the detention and interrogation of all known CIA detainees, from the program's inception to its official end, on January 22, 2009, to include information on their capture, detention, interrogation, and conditions of confinement. It also includes extensive information on the CIA's management, oversight, and day-to-day operation of the CIA's detention and interrogation program.

The Committee has provided copies of the Study to the Central Intelligence Agency, the White House, the Department of State, **the Department of Justice**, and the Office of the Director of National Intelligence, with a request that the White House coordinate comments from all relevant Executive Branch agencies. Although the Committee had asked that these comments be provided by February 15, 2013, the Administration has requested an extension of time to provide feedback on the report. Vice Chairman Chambliss and Senators Burr, Risch, Coats, Blunt, and Rubio filed their minority views on February 15, 2013, in which they presented the basis for their disagreement with the report's conclusions, particularly regarding the effectiveness of the program and the CIA's representations to policymakers, and explained their reasons for opposing the final report. Once the Committee receives the Administration's feedback, it will consider the comments, discuss recommendations for reform, as well as discuss the public release of the Study, including the minority views." (emphasis added)

10. Since the Senate committee's vote, there have been numerous public statements by SSCI members and administration officials calling for the declassification of their report. Indeed, in a news report published in the *New York Times* on July 19, 2013, Sen. Dianne Feinstein, Chairwoman of the Senate Select Intelligence Committee, said she is planning a push to declassify the executive summary. In the same *New York Times* report, White House spokeswoman Caitlin Hayden said, "[S]ome version of the findings of the report should be made public." In a statement issued after SSCI voted to approve the report, Sen. John McCain said he hopes the government "will take whatever steps necessary to finalize and declassify this report, so that all Americans can see the record for themselves, which I believe will finally close this painful chapter for our country." Vice President Joe Biden recently said he too supports the public release of the SSCI report.

PLAINTIFF'S FOIA REQUEST

11. On August 16, 2013, Plaintiff sent a FOIA request to the DOJ via Certified Mail (#7013 1090 0000 8285 2392) seeking a copy of the Department of Justice's copy of the 300 page executive summary of the Senate Select Committee on Intelligence's (SSCI) report on the CIA's detention and interrogation program.

12. According to the records of the U.S. Postal Service, the FOIA request described in the previous paragraph was received by the DOJ on August 20, 2013.

13. Plaintiff has not received any communication from the DOJ regarding this request.

**DOJ'S FAILURE TO RESPOND TO
PLAINTIFF'S REQUEST FOR EXPEDITED PROCESSING**

14. Pursuant to 5 USC § 552(a)(6)(E)(ii), the DOJ's response to Plaintiff's request for expedited processing of his FOIA request was due ten days after the DOJ received it on August 20, 2013, which would have been August 30, 2013.

15. As of the filing of this Complaint, Plaintiff has not received a response to his request for expedited processing regarding this FOIA request.

**COUNT I:
VIOLATION OF FOIA**

16. This Count realleges and incorporates by reference all of the preceding paragraphs.

17. Each of the documents referred to in this Complaint is incorporated herein by reference.

18. Defendant has violated FOIA by failing to grant Plaintiff's request for expedited processing within the time limit prescribed by the statute.

19. Plaintiff has been and will continue to be irreparably harmed until Defendant is ordered to comply with Plaintiff's request for expedited processing.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

- (1) Declare Defendant's failure to comply with FOIA to be unlawful;
- (2) Declare that Plaintiff is entitled to expedited processing of his FOIA request;
- (3) Order Defendant to search for and process the requested records without further delay;
- (4) Grant Plaintiff an award of attorney fees and other litigation costs reasonably incurred in this action pursuant to 5 USC § 552(a)(4)(E)(i);
- (5) Grant Plaintiff such other and further relief which the Court deems proper.

Respectfully Submitted,

/s/ Jeffrey Light

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